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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,397	05/18/2005	Toshiyuki Aiba	1343.45017X00	4412

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EXAMINER

PALO, FRANCIS T

ART UNIT

PAPER NUMBER

3644

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/535,397

Applicant(s)

AIBA, TOSHIYUKI

Examiner

Francis T. Palo

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The **abstract** of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4).

A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

The **abstract** of the disclosure is objected to because in line-7, "comprising" should be changed to --comprises--, and in line-9, "com-prising" should be changed to --comprising--, and in line-11, "bon metal" should be changed to --bone meal--.

Correction is required. See MPEP § 608.01(b).

The **disclosure** is objected to because of the following informalities:

The concluding text of the specification is found on the top of the claim page-9, the claims must be presented on a separate sheet, apart from any other text.

Appropriate correction is required.

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The **specification** has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Specifically, the **specification** is replete with words containing a dash (-) which are improper, while some are proper; for instance on page-1 in lines 10 and 21, "problems" and "em-ployed" are noted respectively and should be changed to --problems-- and --employed--.

On page-3 of the **specification** in line-17, should "60 to 50%" be --50 to 60%--?

Claims 1-5 are objected to because of the following informalities:

In **claim-1** on line-9, "com-posed" should be changed to --composed--; further, the claim contains instances of "such as", which renders the claim indefinite, and language such as "obtained by heating a nonwoody plant" is process language in an apparatus claim, which should be avoided as such language does not serve to distinguish over the prior art, additionally it is unclear what is meant by a plant product, as claimed. Appropriate correction is required.

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In **claim-2**, again the indefinite language "such as" and "palm product" and the process language "obtained by heating a nonwoody plant" should be deleted or amended as discussed above. Appropriate correction is required.

In **claim-3**, "and having" should be changed to --further having--.

Appropriate correction is required.

In **claim-4**, "oil cakes, coffee grounds or the like" should be changed to --oil cakes or coffee grounds.--, as the language "or the like is indefinite".

Appropriate correction is required.

In **claim-5**, as in claim-4, "or the like " should be deleted.

Appropriate correction is required.

Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter:

The limitation "formed of boiled fibers of bamboo" is given patentable weight and should be maintained in the independent claims, as applicant teaches in the specification that the "antibacterial property of bamboo fiber is diminished by boiling",

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thus allowing the plant roots to extend towards the pot wall, and such language serves to distinguish over non-boiled bamboo fibers. Further, the combination of boiled bamboo fiber with ditch reed (or a functional equivalent) is not readily apparent from the prior art teachings which preceed the filing date ; however the vague language "palm product" and "carbonized plant material" should be amended.

Specifically, the claim language does not translate well from the parent applications and applicant should consult with his representative on how to draft a claim set in consideration of the indicated allowability of the perceived instant invention.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Numerous Japanese references were identified which teach bamboo fiber in combination with other materials, these references however were filed later than applicant's filing date and as such cannot be relied upon as a basis for claim rejection.

Hori '627 teaches a sheet material for use in cultivating plants, which can be formed of bamboo fibers and other additives, such as silicon dioxide and calcium oxide.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis T. Palo whose telephone number is 571-272-6907. The examiner can normally be reached on M-Tu.,Th.-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Francis T. Palo

Francis T. Palo
Primary Examiner
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